

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DONALD MICHEL,

Plaintiff,

-v-

9:15-cv-1187  
(DNH/ATB)

SGT. MANNA, Correctional Sergeant, Auburn  
Correctional Facility; LT. TABATE, Hearing  
Officer, Auburn Correctional Facility; and  
HAROLD GRAHAM, Superintendent, Auburn  
Correctional Facility,

Defendants.

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APPEARANCES:

DONALD MICHEL  
12-A-1124  
Plaintiff pro se  
Clinton Correctional Facility  
P.O. Box 2000  
Dannemora, NY 12929

HON. ERIC T. SCHNEIDERMAN  
New York State Attorney General - Syracuse  
Attorney for Defendants  
615 Erie Boulevard West  
Suite 102  
Syracuse, NY 13204

TIMOTHY P. MULVEY, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Donald Michel brought this civil rights action pursuant to 42 U.S.C. § 1983. On January 17, 2017, the Honorable Andrew T. Baxter, United States Magistrate

Judge, advised by Report-Recommendation that defendants' motion for summary judgment be granted as to plaintiff's First Amendment claim, and that plaintiff's Equal Protection claim also be dismissed, without prejudice, *sua sponte*. Plaintiff filed untimely objections to the Report-Recommendation, despite having been given multiple extensions of time in which to do so. Though untimely, plaintiff's objections have been reviewed.

Based upon a *de novo* review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

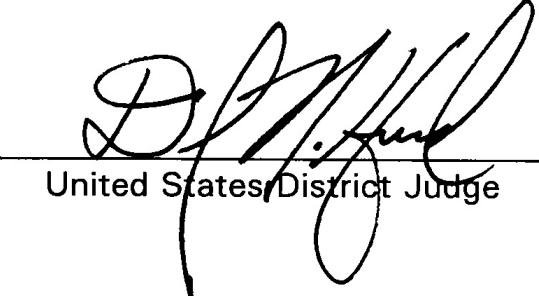
ORDERED that

1. Defendants' motion for summary judgment is GRANTED;
2. Plaintiff's First Amendment claim is DISMISSED;
3. Plaintiff's Equal Protection claim is DISMISSED without prejudice;
4. Plaintiff has twenty (20) days in which to file an amended complaint asserting an

Equal Protection claim which cures the deficiencies identified in the Report-Recommendation; and

5. The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: April 17, 2017  
Utica, New York.